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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,336	06/13/2006	Armin Stellwagen	128174	6236
25944	7590	01/27/2009	EXAMINER	
OLIFF & BERRIDGE, PLC P.O. BOX 320850 ALEXANDRIA, VA 22320-4850				LAZO, THOMAS E
ART UNIT		PAPER NUMBER		
3745				
		MAIL DATE		DELIVERY MODE
		01/27/2009		PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/581,336	STELLWAGEN, ARMIN	
	<b>Examiner</b>	<b>Art Unit</b>	
	Thomas E. Lazo	3745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 13 June 2006.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-9 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-5 and 9 is/are rejected.  
 7) Claim(s) 6-8 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 02 June 2006 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/22/06</u> .   | 6) <input type="checkbox"/> Other: _____ .                        |

## **DETAILED ACTION**

### ***Specification***

The disclosure is objected to because of the following informalities:

References to claim 1 on pages 1 and 2 should be removed.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Distler et al. (GB 2149887) in view of Hirata et al. (5,315,826). Distler et al. discloses a hydraulic controller arrangement for the pressure medium supply of a hydraulic consumer 40 whereby a load having a high mass may be moved, with a pump 26 conducts pressure medium via a proportionally adjustable directional control valve 10 to the consumer 40 and from the latter 40 via a drain cross-section controlled open by a drain control edge of the directional control valve 10 to a tank passage 30, that in the pressure medium flow path between the consumer 40 and the tank passage 30 a drain backup valve 52 is arranged, whereby it is possible to open a drain branch line 54 leading to the tank passage 30 substantially prior to opening of the drain cross-section, wherein shut-off means for blocking the drain branch line during a predetermined stroke

of a regulator of the directional control valve 10 are provided in the drain branch line 54 upstream or downstream from the drain backup valve 52, the shut-off means are formed by a control edge of the regulator, the drain backup valve 52 and the drain branch line 54 are integrated into a regulator of the directional control valve 10 and the control edge is formed by a control groove into which a radial bore of the drain branch line 54 merges. Note Distler et al. page 1, lines 24-31. Distler et al. does not disclose that the pump may be controlled in dependence on the load pressure at the consumer.

Hirata et al. teaches for a hydraulic controller arrangement for the pressure medium supply of a hydraulic consumer 3 whereby a load having a high mass may be moved, with a pump 1 conducts pressure medium via a proportionally adjustable directional control valve 5 to the consumer 3 and from the latter via a drain cross-section controlled open by a drain control edge of the directional control valve 5 to a tank passage and that the pump 1 is controlled in dependence on the load pressure 20 at the consumer 3 for the purposes of providing sufficient pressure to the hydraulic consumer. See Hirata et al. col. 5, line 67 – col. 6, line 5.

Since Distler et al. and Hirata et al. are both in the same field of endeavor the purpose disclosed by Hirata et al. would have been recognized in the pertinent art of Distler et al. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the pump of Distler et al. to be controlled in dependence on the load pressure at the consumer for the purposes of providing sufficient pressure to the consumer.

***Allowable Subject Matter***

Claims 6-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Prior Art***

Prior art made of record but not relied upon is considered pertinent to Applicant's disclosure and consists of four patents.

Oberhausser et al., Kropp, Sugiyama et al., and Jackson et al. are cited to show hydraulic controller arrangements for the pressure medium supply of a hydraulic consumer.

***Contact Information***

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Thomas Lazo whose telephone number is (571) 272-4818. The examiner can normally be reached on Monday-Friday from 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Edward Look, can be reached on (571) 272-4820. The fax phone number for this Group is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Thomas E. Lazo/  
Primary Examiner,  
Art Unit 3745  
January 22, 2009